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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,041	04/25/2001	Kouichi Matsuda	206348US6	4354

22850 7590 12/04/2003

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EXAMINER

PESIN, BORIS M

ART UNIT PAPER NUMBER

2174

DATE MAILED: 12/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/841,041

Applicant(s)

MATSUDA, KOUICHI

Examiner

Boris Pesin

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12 and 13 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. Claim 1, 3-6, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuda (US 6,292,198) in view of Woods et. al. (US 6,510,417).

In regards to claim 1, Matsuda discloses an information processing apparatus for controlling an application object moving autonomously in a shared virtual space in which avatars representing users of other information processing apparatus are active (Column 4, Line 42 and Claim 5). He further discloses coordinate controlling means for controlling coordinates of said application object in accordance with results of the location, or distribution, of avatars (Abstract, Line 8). He further discloses a display controlling means for controlling display of information by the application object controlled in coordinates by the coordinate controlling means (Column 11, Line 63).

Matsuda lacks a distribution examining means for examining distribution of avatars in the shared virtual space. Woods teaches that, "Advantageously advertising subsystems includes a method for determining what advertisements to play to a specific user. Generally, this method includes setting selection constraints based on the context, such as, user demographics, location demographics, and a current vertical domain of interest." (Column 29, Line 3). It would have been obvious to one of ordinary skill in the art at the time of the invention to use Wood's teaching and modify Matsuda's invention to include a way of determining the geographical distribution of the users, or avatars, in order to see where the majority of the users are located.

2. Claim 3 is in the same context as claim 1; it is therefore rejected under similar rationale.
3. Claim 4 is in the same context as claim 1; it is therefore rejected under similar rationale.
4. Claim 5 and 6 are in the same context as claim 1 except for that they talk about attributes instead of distribution. However, distribution of avatars is considered an attribute of the avatars, therefore claim 5 and 6 are rejected under similar rationale as claim 1.
5. Claim 8 is in the same context as claim 5; it is therefore rejected under similar rationale.
6. Claim 9 is in the same context as claim 5; it is therefore rejected under similar rationale.

7. Claim 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuda (US 6,292,198) in view of Woods et. al. (US 6,510,417) and in further view of Roseborough et. al. (US 6,141,019).

8. In regard to claim 2, Matsuda and Woods disclose all the limitations of claim 1 but do not disclose the ability for the application object to display advertisements. Rosenborough teaches that "The presents synthetic creature . . . is also well suited for application in highly complex applications, such as . . . advertising." (Column 27, Line 31). It would have been obvious to one of ordinary skill in the art at the time of the invention to use Rosenborough's teaching and modify Matsuda and Woods to include the ability for the avatar to display advertising, in order to communicate pertinent information about a product to the user.

9. Claim 7 is in the same context as claim 2; it is therefore rejected under similar rationale.

10. Claim 10, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuda (US 6,292,198) in view of Woods et. al. (US 6,510,417) and in further view of Griffiths et. al. (US 6,286,045).

In regards to claim 10, Matsuda and Woods disclose, as stated in the rejection for claim 1, an information processing apparatus for controlling an application object moving autonomously in a shared virtual space in which avatars representing users of other information processing apparatus are active. They further disclose an examining means for examining at least either the distribution or attributes of the active avatars in virtual space. They further disclose a coordinate controlling means for controlling

coordinates of said application object in accordance with results of the examination. They further disclose a display controlling means for controlling display of information by said application object. Matsuda and Woods lack the ability to count the number of avatars positioned within a predetermined range around said application object. They further lack the charging means for processing charges for the information controlled in terms of display by the display controlling means in accordance with the result of the counting means. Griffiths teaches, "... entities such as advertising agencies, advertising repping firms, and the entities hiring them want to count and know each time a banner is displayed on a user's terminal so that the success or failure of various advertising banners can be determined and so that the correct payment for the display of the advertising banners can be computed." (Column 13, Line 3). It would have been obvious to one of ordinary skill in the art at the time of the invention to use Griffiths' teaching and modify Matsuda and Woods to include a way to count the number of viewers of the advertisement, or the number of avatars circa the application object, in order to see how much the advertising agency should get charged, and have a way of charging the advertisers based on the number of views of the advertisement, in order to give a fair marketing plan to the advertisers.

11. Claim 12 is in the same context as claim 10; it is therefore rejected under similar rationale.

12. Claim 13 is in the same context as claim 10; it is therefore rejected under similar rationale.

Allowable Subject Matter

13. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Claim 11 is allowable because the limitation of using a counting method to weight the number of avatars in order to identify their attributes in combination with the limitations of claim 10 is not taught by prior art.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US006496207B1	Matsuda et al
US006219045B1	Leahy et al
US005736982A	Suzuki et al
US006392667B1	McKinnon et al
US006034684A	Proehl et al
US005948061A	Merriman et al
US006117061A	Popat et al

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boris Pesin whose telephone number is (703) 305-8774. The examiner can normally be reached on Monday-Friday with the exception of every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (703) 308-0640. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



STEVEN SAX
PRIMARY EXAMINER